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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,377	02/01/2005	Robin J. Blackwell	GB 030052	3730
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EXAMINER				
TAHA, SHAIQ				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,377

Applicant(s)

BLACKWELL ET AL.

Examiner

SHAQ TAHA

Art Unit

2478

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/20/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a final action for application number 10/523,377 in response to a non-final filed on 08/20/2010. The original application was filed on 02/01//2005. Claims 1 – 18 and 20 are currently pending and have been considered below. Claims 1, 3 – 15, 17, 18, and 20 are amended. Claims 19, 21, and 22 are cancelled. Claims 1, 8, 9, 11, and 15 are independent claims.

Applicant's Response

The Double Patenting rejection has been sustained.

Applicant's arguments filed 08/20/2010 have been fully considered but they are not persuasive. The reasons are set forth below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 18 and 20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/523,380. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 3 - 22 contain every element of the instant application and as such anticipate the claims 1 – 18 and 20 of the instant application. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The subject matter claimed in the instant application is disclosed in the referenced copending application, wherein the referenced copending application and the instant application are claiming common subject matter as follows: the limitation of

the instant application in claim one: sending a simple device description query message to the second device requesting a simple device description is the same as the limitation in copending application transmitting from a first device to a second device a request for a simple device description message of claim three. Also, the limitation in claim one of the instant application: receiving from the second device a simple device description message of defined length including a device type value representing the type of the second device is the same as the limitation in the copending application of claim three: transmitting from the second device to the first device the simple device description message, and another limitation which is: including by the second device a device type value representing a type the second device in the simple device description message. Also, the limitation of claim one in the instant application: sending a query message to the second device requesting an extended device description from the second device is the same as the limitation of claim five in the copending application: sending an extended device description query message to the at least one other device requesting an extended device description from the at least one other device. The copending application fails to explicitly teach when the simple device description indicates that the extended device description is available and the extended device description is required by the first device, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the copending application by including the missing limitation as taught in Stephens et al., Col. 10, lines 55 – 65. Regarding the limitation of the instant application of claim one: receiving from the second device the extended device description of variable length is the same

limitation in the copending application of claim five which is receiving from the at least on other device an extended device description of variable length.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP ~ 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens et al. (US 7,684,438) in view of Zintel et al. (US 2002/0029256)

Regarding claims 1, 8, 9, 11, 15, 18, and 20, a method of operation in a network having a plurality of devices each including at least one of a plurality of device types, the method comprising acts of: a first device discovering at least one second device of the plurality of devices, **[a user device initiates a Bluetooth device discovery request, wherein the user of a first device sends a request to a second device requesting**

device description which is the device discovery such as device name, as shown in Fig. 11, Ref # 1104, (Stephens et al., Col. 9, lines 36 – 40)],

requesting a simple device description for each discovered second device for which the simple device description is required, **[a user device initiates a Bluetooth device discovery request, wherein the user of a first device sends a request to a second device requesting device description which is the device discovery such as device name, as shown in Fig. 11, Ref # 1104, (Stephens et al., Col. 9, lines 36 – 40)],**

and receiving from the second device a simple device description message of a defined length, the message including the device type of the second device, **[After determining that it is a device discovery request, the virtual linking system 100 responds with the virtual linking system's device name at a block 1104, wherein the device name is the simple device description and is provided as a character string as shown in Fig. 14, (Stephens et al., Col. 9, lines 35 – 45)],**

and requesting an extended device description from each second device for which the extended device description is required when the simple device description indicates that the extended device description is available, and receiving from the second device the extended device description message of variable length, **[The virtual linking system 100 returns to the block 1100 and awaits another request from the user device. Next, the user device initiates a Bluetooth service discovery request. Such a request is initiated as a result of a device discovery response or by the user wishing to access a service that a discovered device may be able to offer,**

wherein the service discovery is the extended device description requested by the user and is requested after a simple device description is received and indicates that an extended device description is available, (Stephens et al., Col. 9, Lines 46 – 53)],

Stephens et al. fails to teach that the simple device description and the extended device description have a defined/variable length,

Zintel et al. teaches the Content-Length header will be the number of bytes in the XML body, wherein the XML body represents device description as shown in Fig. 14, wherein simple device description is requested and has a defined length and extended device is further requested that has a variable length, **(Zintel et al., Paragraph 440)**, in order to include in the device description manufacturer information, model name and number, and serial number, **(Zintel et al., Abstract)**,

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Stephens et al. by including that the simple device description and the extended device description have a defined length, **(Zintel et al., Paragraph 440)**, in order to include in the device description manufacturer information, model name and number, and serial number, **(Zintel et al., Abstract)**,

Stephens et al. fails to teach that the device types forming a predetermined hierarchy including any number of subsidiary device types depending on at least one of another subsidiary device type and at least one basic device type,

Zintel et al. teaches dynamic connectivity among distributed devices and services, and more particularly relates to providing a capability for devices to

automatically self-configure to interoperate with other peer networking devices on a network, such as in a pervasive computing environment, **(Paragraphs 69, 135),**

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Stephens et al. by including that the device types forming a predetermined hierarchy including any number of subsidiary device types depending on at least one of another subsidiary device type and at least one basic device type, , **(Zintel et al., Paragraph 440),** in order to enable multiple User Control Points to have a consistent view of Controlled Devices, **(Zintel et al., Paragraph 135).**

Regarding claims 2, the method according to claim 1, further comprising an act of establishing the network address of the second device before the act of sending a simple device description to the second device, **[Fig. 8, Ref # 810, wherein the user device which is the second device is connected through a Bluetooth radio network, (Stephens et al., Col. 9, lines 15 - 20)].**

Regarding claims 3, 10, and 12, Stephens et al. teaches a system and method for virtual linking a wireless device to another device, **(Stephens et al., Abstract),**

Stephens et al. fails to teach that the simple device description message is in the form of a token-compressed message compressed from a human-readable message format, the simple device each of the subsidiary device types inheriting properties of higher level device types on which the subsidiary device type depends,

Zintel et al. teaches that UPnP utilizes XML-based schema to describe device structures and operational functions exposed by a UPnP Controlled Device and XML message-based protocols for their invocation, **(Zintel et al., Paragraph 184)**, in order to describe the device and any services supported by the device. The template language is written using an XML-based syntax that organizes and structures the elements, **(Zintel et al., Abstract)**,

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Stephens et al. by including that the simple device description message is in the form of a token-compressed message compressed from a human-readable message format, the simple device each of the subsidiary device types inheriting properties of higher level device types on which the subsidiary device type depends, **(Zintel et al., Paragraph 184)**, in order to enable multiple User Control Points to have a consistent view of Controlled Devices, **(Zintel et al., Paragraph 135)**.

Regarding claims 4, the method according to claim 3, wherein the first device is a controller type device comprising a list of the device types of the one or more discovered devices that the controller can control, **[The controller 130 is configured to initiate device discovery and service discovery for creation and maintenance of the VDT 820 continuously, periodically, upon addition or deletion of a resource, or upon request by a personnel, such as a system administrator, (Stephens et al., Col. 12, lines 12 – 20)]**.

Regarding claims 5, the method according to claim 4, further comprising an act of determining the lowest level device type of the device type of the second device or the device type from which the device type of the second device depends and the extent to which the first device can control the second device, **[The access associated with the devices may be controlled for security reasons (e.g., a guest user cannot have access to a server), ease of use (e.g., a user may be presented with "The nearest printer" and "My printer" rather than a list of all available printers), or a variety of other reasons, (Stephens et al., Col. 11, lines 55 – 60)].**

Regarding claims 6, the method according to claim 5, wherein the requested device type is provided to request whether the first device is able to control a device of the requested device type, **[The list of device types to advertise to, e.g., PDAs only, headsets only, all devices, etc., is a default value, (Stephens et al., Col. 13, lines 35 – 40)],**

and a device type in the extended device description message representing the lowest level of device is the requested device type or is a higher level device type from which the requested device type depends, **[Fig. 11, Ref # 1104].**

Regarding claims 7 and 17, the method according to claim 2, wherein the predetermined device type hierarchy further includes a composite device type, and the first device is of the composite device type having the functionality of an integer number of other devices, and the simple device description message including the device type

representing the second device as a composite device and the integer number of other devices is the number of the subsidiary device types, **[After determining that it is a device discovery request, the virtual linking system 100 responds with the virtual linking system's device name at a block 1104, wherein the device name is the simple device description and is provided as a character string as shown in Fig. 14, (Stephens et al., Col. 9, lines 35 – 45)].**

Regarding claim 13, the first device according to claim 12, wherein the first device is the controller device type and comprises a list of device types that can be controlled by the first device, and further comprising an act of determining a lowest level device type of the device type of the at least one of the plurality of devices or the device type from which the device type of the at least one of the plurality of devices depends and the extent to which the first device can control the at least one device of the plurality of devices, **[The access associated with the devices may be controlled for security reasons (e.g., a guest user cannot have access to a server), ease of use (e.g., a user may be presented with "The nearest printer" and "My printer" rather than a list of all available printers), or a variety of other reasons, (Stephens et al., Col. 11, lines 55 – 60)].**

Regarding claims 14, the networked device according to claim 13, wherein the message handler is arranged: to receive a request from a third device including a device type value inquiring whether the first device is able to control a device of a

device type of the third device, **[The list of device types to advertise to, e.g., PDAs only, headsets only, all devices, etc., is a default value, (Stephens et al., Col. 13, lines 35 – 40)],**

and to respond with a message including a device type value representing the lowest level of device type in the list of device types that either is the third device type or is a higher level device type from which the third device type depends, **[Fig. 11, Ref # 1104].**

Regarding claims 16, the system according to claim 15, wherein the plurality of networked devices includes at least one simple device without the capability to decompress messages and interpreting directly compressed messages and at least one complex device including a message decompression arrangement for decompressing the messages and a message interpreter for interpreting the decompressed messages, **[In the transparent virtual linking service, translation or interpretation of the link stream is not required. In the non-transparent virtual linking service, translation is required to take into account dissimilar profiles between the initiating device and the resource device, (Stephens et al., Col. 8, lines 55 - 60)].**

Response to Arguments

The Applicant Argues:

That Zintel et al. fails to teach that the device types forming a predetermined hierarchy including any number of subsidiary device types depending on at least one of another subsidiary device type and at least one basic device type.

In response, the examiner respectfully submits: that a user of a first device sends a request to a second device requesting device description which is the device discovery such as device name, as shown in Fig. 11, Ref # 1104, Col. 9, lines 36 – 40, Zintel et al. teaches, in paragraphs 69, 135, and 154 and as shown in Figs. 1 – 3, 7 - 8, and 1, device description exchanged between other devices in a network. Zintel et al. further teaches that the device types forming a predetermined hierarchy including any number of subsidiary device types depending on at least one of another subsidiary device type and at least one basic device type, Wherein Zintel et al. teaches dynamic connectivity among distributed devices and services and the capability for devices to automatically self-configure to interoperate with other peer devices on a network in a pervasive computing environment. So, Stephens et al. in view of Zintel disclose the applicants invention as claimed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Shaq Taha** whose telephone number is 571-270-1921. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Pwu** can be reached on 571-272-6798.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/S. T./

Examiner, Art Unit 2478

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2478